

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CORY ISAACS,

Plaintiff,

v.

ORDER
07-CV-257

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). On January 3, 2008, defendant filed a motion for judgment on the pleadings and on February 19, 2008, plaintiff filed a cross-motion for judgment on the pleadings. On December 15, 2008, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant's motion for judgment on the pleadings is denied and plaintiff's cross-motion is granted.

Defendant filed objections to the Report and Recommendation on January 9, 2009, and plaintiff filed a response thereto. Oral argument on the objections was held on February 26, 2009.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and

Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation. At oral argument, plaintiff requested that, upon a decision to adopt the Report and Recommendation, this Court specifically direct defendant to re-assess plaintiff's credibility. The Court declines to do so.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant's motion for judgment on the pleadings is denied and plaintiff's cross-motion for judgment on the pleadings is granted. The Clerk of Court shall take all steps necessary to close this case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: March 2 , 2009